O/c

Date: 19-11-2019

From:
M/s. Summit Builders,
D.No.5-4-187/3&4,
Soham Mansion, M.G. Road,
Secunderabad – 500 003.

To
The Commercial Tax Officer,
M.G. Road – S.D. Road Circle,
Hyderabad.

Sir,

Sub: TVAT Act' 2005- Filing of appeal in the case of M/s. Summit Builders, Secunderabad - For the year 2013-14 to 2017-18 (upto June'2017)/Penalty – Stay Petition filed – Intimation – Reg.

Ref: 1) ADC orderNo.1541 in Appeal No.BV/69/2019-20, dt.22-10-2019.
2) Stay petition filed before Addl.Commr.(CT) Legal on 07-11-2019.
3) Your arrear notice dated 08-11-2019.

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It is submitted that against the penalty order passed by the AC(ST), M.G. Road- S.D. Road Circle, Hyderabad under TVAT Act, we have filed appeal before the Hon'ble Appellate Dy. Commissioner (CT), Punjagutta Division, Hyderabad and also filed application for stay of collection of the disputed penalty. In this connection it is submitted that appeal petition was rejected by ADC (CT), Punjagutta Division, Hyderabad vide his order dated 22-10-2019. Aggrieved by the said stay rejection order we have filed second stay application before the Hon'ble Addl. Commissioner (CT) Legal, O/o Commissioner(ST) Hyderabad on 07-11-2019.

In this connection we invite your kind attention to the latest judgment dated 22.6.2018 in the case of Sri Dedeepriya Paints Vs DCTO-I (2019—107 taxmann.com 377) delivered by the Honourable High Court for the State of Andhra Pradesh and the State of Telangana, wherein it has been held as follows:-

We further submit that the Honourable High Court of AP in its decision in WP No.39378 of 2012 dated 25.2.2013 in the case of Katuri Medical College and Hospitals, Guntur District Vs CTO, Lalapet Circle, Guntur (22 TTR 163) held as follows:-

"The basis of the principle in M/s. Anab-E-Shahi Wines case is that if recoveries of disputed tax or penalty are made where stay application is pending before the appellate authorities, the appeal itself would be rendered infructuous and that the assessee who is aggrieved by an order of assessment has been given a statutory right of appeal which cannot be rendered infructuous by being forced to pay the disputed tax or penalty pending the appeal.

SUMMIT BUILDERS M.G.ROAD SEC'BAD

Assistant Commissioner (ST) M.G. Road-S.D. Road Circle
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"We are not inclined to interfere with the impugned judgment. The Special Leave Petition is accordingly dismissed."

In view of the above binding decisions and as our appeals have been still pending disposal. it is not just to demand the balance of the disputed tax amount. In view of the said decisions, the orders of the learned Additional Commissioner have become infructuous and inoperative. In view of the above decisions; no coercive steps shall be taken to demand the balance tax and penalty. As we didn't know about the said decisions, we couldn't place the same before the learned Appellate Joint Commissioner (CT). Our legal counsel has advised that demand of payment of the balance tax and penalty would be in violation of the decision of the honourable Supreme Court and hence it would also amount to contempt of the Court, if we are forced to pay the same. We therefore request not to press for collection of the balance of the disputed tax and kindly wait till the disposal of the appeal.

Thanking you,

Yours truly

for Summit Builders,

SUMMIT BUILDERS M.G.ROAD SEC'BAD.

Encl.: As Above